

## Message Text

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PAGE 01 STATE 017385

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INFO OCT-01 EA-10 ISO-00 EB-07 TRSE-00 SIL-01 LAB-04

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R 241953Z JAN 75  
FM SECSTATE WASHDC  
TO AMCONSUL MELBOURNE  
CINCPAC HONOLULU HI  
INFO AMEMBASSY CANBERRA  
AMCONSUL SYDNEY

UNCLAS STATE 017385

CINCPAC FOR POLAD

E.O. 11652: N/A  
TAGS: ELAB,AS  
SUBJECT: REQUEST FOR INFORMATION TO ASSIST FEDERAL  
JUDICIAL INQUIRY  
REF: MELBOURNE 0065

1. PER REFTEL REQUEST, DEPT. HAS CHECKED ON STATUS OF  
EXCEPTIONS TO SECTION 27 (SECTION 27 IS CORRECT CITE)  
OF MERCHANT MARINE ACT OF 1920, 46 USC 883 AS AMENDED.  
LAW MAKES PROVISION FOR NATIONAL DEFENSE WAIVER. IN  
ADDITION, MERCHANT MARINE ACT AS AMENDED CONTAINS CERTAIN  
LIMITED EXCEPTIONS.

2. ACT OF DECEMBER 27, 1950 (46 USC SECTION 1, HISTORICAL  
NOTE) PROVIDES FOR A WAIVER OF NAVIGATION AND VESSEL INSPEC-  
TION LAWS BY THE HEAD OF THE RESPONSIBLE AGENCY OR DEPART-  
MENT UPON THE REQUEST OF THE SECRETARY OF DEFENSE OR HEAD  
OF ANY OTHER FEDERAL AGENCY, TO THE EXTENT DEEMED NECES-  
SARY IN THE INTEREST OF NATIONAL DEFENSE BY THE SECRETARY  
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PAGE 02 STATE 017385

OF DEFENSE OR HEAD OF ANY OTHER FEDERAL AGENCY. THIS

SECTION HAS BEEN INTERPRETED AS APPLYING TO 46 USC 883 AND APPROXIMATELY 100 WAIVERS OF SECTION 883 HAVE BEEN GRANTED BY TREAS. DEPT. SINCE 1950. A LIST OF THESE WAIVERS WITH SHORT DESCRIPTIONS OF THE FACTS OF EACH EXCEPTION, IS BEING POUCHED NEXT WEEK AS SOON AS RECEIVED FROM TREASURY. UNDER THE LAW, A REQUEST FOR A NATIONAL DEFENSE WAIVER BY THE DEFENSE DEPARTMENT MUST BE GRANTED, WHEREAS A REQUEST FROM ANY OTHER FEDERAL AGENCY IS CAREFULLY RE-

VIEWED BY TREAS. OFFICIALS. MOST REQUESTS ARE NOT APPROVED BY TREAS. AND THERE MUST BE SUBSTANTIAL EVIDENCE OF A NATIONAL DEFENSE INTEREST BEFORE A REQUEST WILL BE APPROVED.

3. IN ADDITION TO ABOVE WAIVER PROVISION, MERCHANT MARINE ACT, AS AMENDED, CONTAINS CERTAIN EXCEPTIONS FOR SPECIFIC TYPES OF TRANSPORTATION. LAST TWO EXCEPTIONS ARE APPLICABLE TO COASTWISE TRADE BY FOREIGN VESSELS TRANSPORTING CERTAIN EMPTY ARTICLES, INCLUDING CONTAINERS AND BARGES, AND TO TRANSPORTATION OF MERCHANDISE TRANSFERRED BETWEEN TWO LASH-TYPE BARGES. (SEE COPY OF STATUTE BEING POUCHED). THESE EXCEPTIONS MAY BE MADE BY SECRETARY OF TREAS. ONLY UPON FINDING, PURSUANT TO INFORMATION OBTAINED AND FURNISHED BY THE SECRETARY OF STATE, THAT THE GOVERNMENT OF THE NATION OF REGISTRY EXTENDS RECIPROCAL PRIVILEGES TO VESSELS OF THE UNITED STATES. A NUMBER OF NATIONS HAVE BEEN FOUND TO MEET THESE REQUIREMENTS. (SEE COPY OF REGULATIONS BEING POUCHED). FIRST THREE EXCEPTIONS IN SEC. 833 CONCERN TRANSPORTATION IN SPECIFIC AREAS SUCH AS UPON YUKON RIVER. EXCEPTIONS ARE MADE ON INDIVIDUAL COMPANY OR VESSEL BASIS, BUT TREAS. DEPT. IN WASHINGTON DOES NOT HAVE INFORMATION TO ESTIMATE TOTAL NUMBERS.

4. COMMENT: CONTENTION THAT ONLY ONE EXCEPTION HAS BEEN GRANTED TO SECTION 27 OF MERCHANT MARINE ACT IS NOT CORRECT. THIS LAW IS RIGIDLY ENFORCED BY OFFICERS OF THE U.S. CUSTOMS SERVICE OF DEPT. OF TREAS. AND THERE IS MUCH INTEREST AND PRESSURE FROM CONGRESS AND RELEVANT UNIONS TO SEE THAT IT IS ENFORCED STRICTLY. HOWEVER, WAIVERS OR EXCEPTIONS ARE GRANTED UNDER SPECIFIC STATUTORY AUTHORITY UNCLASSIFIED

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PAGE 03 STATE 017385

RITY (ACT OF DEC. 27, 1950 AND SECT. 883) WHERE APPLICABLE REQUIREMENTS ARE MET. INGERSOLL

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## Message Attributes

**Automatic Decaptoning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Review Withdrawn Fields:** n/a  
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**Status:** NATIVE  
**Subject:** REQUEST FOR INFORMATION TO ASSIST FEDERAL JUDICIAL INQUIRY  
**TAGS:** ELAB, AS  
**To:** MELBOURNE CINCPAC  
**Type:** TE  
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